IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY NINTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

-

WRIT PETITION NO : 19823 of 2004

Between:

VST workers Union rep. by its General Secretary,
A.Prabhakar, S/o. Ramulu, Aged 40 Years, R/o. VST Workers Union Offfice, VST, Azamabad,
Hydeabad 500 020.

..... PETITIONER

AND

1.The Commissioner of Labour, Govt of A.P., Anjayya Bhavan, Chikkadapally,

Hyderabad.
2.The Deputy Commissioner of Labour (Admn.) & Returning Officer, O/o. the

Commissioner of Labour, A.P. Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to Issue a Writ Order or Direction more particularly one in the nature of Writ of Mandamus declaring the election notification letter No. E1/17719/2004 dt. 26.10.2004 as illegal, arbitrary and in violation of Principles of Natural Justice.

Counsel for the Petitioner: MR.KRISHNA MOHAN SIKHARAM

Counsel for the Respondents: GP FOR LABOUR

The Court at the admission stage made the following:

ORDER:

Heard the learned counsel for the petitioner and the learned Government Pleader for Labour appearing for the respondents.

The petitioner-VST Workers' Union of Azamabad filed this writ petition seeking a declaration that the election notification dated 26.10.2004 issued by the second respondent, is arbitrary and illegal.

It is not in dispute that the tenure of the petitioner Union has already expired on 19.09.2004. Though the petitioner states that it made a request for extension of its term and it was extended upto 19.11.2004, nothing has been placed before this Court to substantiate the same. The impugned notification has been primarily challenged by the petitioner on three grounds. Firstly, it is contended that except the letter dated 26.10.2004 addressed by the 2nd respondent the petitioner-Union was not served with the notification under which the election was scheduled to be conducted and therefore the action of the respondents is not in accordance with law. The second contention is that since the list of voters has not been prepared so far, the respondents are not entitled to conduct elections

without preparing the list of voters. Thirdly, it is contended that since the petitioner-Union made application on 16.09.2004 requesting the first respondent to conduct the elections in the month of December, 2004 for the reasons stated thereunder, the respondents are not justified in conducting the elections now. Thus, the petitioners seek to stay the election proceedings and also to set aside the election notification.

I am not inclined to grant the relief as prayed for on any one of the contentions raised by the petitioner-Union. It is not a case where the impugned action of the respondents in conducting the elections is challenged on the ground that it is in violation of any one of the statutory provisions or the bye-laws or the Rules applicable. The law is well settled that once the election process is commenced, the same cannot be interfered with under Article 226 of the Constitution of India on any ground including the alleged irregularities in the preparation of voters list unless a clear case is made out that the election process is apparently illegal and unconstitutional. In the absence of any material to make out such a case, I do not see any justifiable reason to interdict the election process at this stage.

It is also relevant to note that this Court while considering a writ petition filed by some of the workers questioning the proposed election of President of the workers union of the same Vazir Sultan Tobacco Company Ltd., in the decision rendered in MANIK RAO AND OTHERS v DEPUTY COMMISSIONER OF LABOUR, TWIN CITIES OF HYDERABAD (Returning Officer for the election of the President of the Vazir Sultan Tobacco Company Ltd., Workers Union (Registered No.1) AND ANOHTER, while holding that the Rules of the trade union are not statutory and that the Commissioner of Labour while holding the elections to the Trade Union does not act in the discharge of his official duties and therefore he is not amenable to writ jurisdiction, concluded that the writ petition under Article 226 of the Constitution of India is not maintainable. The ratio laid down in the said decision squarely applies to the case on hand and thus even on that ground the writ petition is liable to be dismissed in limini. In the

circumstances, the writ petition is dismissed. No costs.

29.10.2004

VGB

To

1.The Commissioner of Labour, Govt of A.P., Anjayya Bhavan, Chikkadapally,

Hyderabad.
2.The Deputy Commissioner of Labour (Admn.) & Returning Officer, O/o. the

Commissioner of Labour, A.P. Hyderabad.

3.2CCs to the Government Pleader for Labour, High Court Buildings,

Hyderabad (OUT)

4.2CD copies